THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.4647 of 2007

08.3.2007

Between:

Smt.Khursheed Khatoon, W/o.late Sd. Saifuddin (Kabeer),
And another

… Petitioners

AND

The Joint Collector, Karimnagar District
And others

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.4647 of 2007

ORDER:

The case of the petitioners is as follows. Zaheeruddin, grandfather of the second petitioner is allegedly owner and possessor of agricultural land comprised in survey Nos.151, 233 to 240 and 242 of Bommakal village in Karimnagar District. He went to Gulf country in 1963. He died in 1995. After death of Zaheeruddin, his son – Saifuddin – allegedly succeeded to the property. He also left for Gulf country for employment. The second petitioner also went to Muscat in Oman in 2000. After returned to India in 2002 he came to know that respondents 3 to 6 are claiming title over the land by reason of fraudulent entry in the revenue records. Therefore, he made a representation dated 28.11.2002 to the District Collector, Karimnagar, who forwarded the same to the Mandal Revenue Officer (MRO), Karimnagar – second respondent herein; for enquiry. By order dated 28.2.2005, the second respondent rejected the application for rectification of entries. Therefore, the petitioners preferred an appeal under Section 90 of the A.P. (Telangana Area) Tenancy and Agricultural Lands Act, 1950 (Tenancy Act, for brevity) and Section 9 of A.P. Rights in Land and Pattadar Pass Books Act, 1971. By impugned order, dated 24.2.2007, the first respondent dismissed the appeal aggrieved by which the present writ petition is filed under Article 226 of Constitution of India.

Learned Counsel for the petitioner submits that respondents 3 to 6 relied on a certificate under Section 50-B of the Tenancy Act, which was allegedly obtained by their father, late Kishan Singh, having purchased the property from S.D.Zaheeruddin and Ghan Shyamlal. He submits that the said certificate is fabricated and forged and the Joint Collector ought not to have given importance to the same. He

would urge that no material is available to prove the genuineness of the certificate under Section 50-B of the Tenancy Act. He also contends that when the documents are obtained by the respondents 3 to 6 by playing fraud the delay would not bar the claim of the petitioners.

Even according to the petitioners respondents 3 to 6 relied on a certificate issued by the Tahsildar, Karimnagar, under Section 50-B of the Tenancy Act in favour of Kishan Singh, who obtained the same based on a registered sale deed executed by Zaheeruddin and another. As seen from the order of the MRO dated 28.2.2005 dismissing the claim of the petitioners, late Kishan Singh obtained an order of regularization under Section 50-B of the Tenancy Act vide reference No.A8/6879/69, dated 25.3.1969. He also obtained Pattadar Pass Books (PPBs). What is more is that after coming into force of Ceiling Laws, he filed a declaration under A.P. Land Reforms (Ceiling on Agricultural Holdings) Act, 1973, in C.C. No.278/Knr/75 also declaring the land in survey No.151 about which the dispute is raised. These would certainly are adverse to the case of the petitioners. Secondly when the respondents' predecessor obtained validation under Section 50-B of the Tenancy Act and pursuant thereto got PPBs and necessary mutation, the petitioners woke up and filed petition only in November 2002 into which an enquiry was conducted. There was certainly a long delay of about forty (40) years, presumably for this reason the Joint Collector observed that in the absence of cancellation of sale deeds under Section 31 of the Specific Relief Act, 1963, the petitioners cannot succeed in the appeal. Either on the questions of fact or on the questions of law, the Joint Collector addressed correct questions for consideration before coming to the conclusion against the petitioners.

The writ petition is devoid of merits and is accordingly dismissed. No costs.

_____

March 08, 2007 (**V.V.S.RAO,J**)

YS